

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BETANET, LLC,

Plaintiff,

-against-

- (1) ADOBE SYSTEMS, INC.;
- (2) APPLE, INC.;
- (3) ARIAL SOFTWARE, LLC;
- (4) AUTODESK, INC.;
- (5) CARBONITE, INC.;
- (6) COREL CORP.;
- (7) EASTMAN KODAK CO.;
- (8) INTERNATIONAL BUSINESS
MACHINES CORP.;
- (9) INTUIT, INC.;
- (10) MICROSOFT CORP.;
- (11) MCAFEE, INC.;
- (12) ONLINE HOLDINGS, LLC;
- (13) ORACLE CORP.;
- (14) ROCKWELL AUTOMATION, INC.
- (15) ROSETTA STONE, LTD.
- (16) SAP AMERICA, INC.;
- (17) SIEMENS CORP.; and
- (18) SONY CREATIVE SOFTWARE, INC.,

Defendants.

Case No. 2:09-cv-384

JURY TRIAL DEMANDED

ANSWER OF DEFENDANT ROCKWELL AUTOMATION, INC.

Defendant Rockwell Automation, Inc. ("Rockwell"), by its undersigned attorneys, answers the First Amended Complaint of plaintiff BetaNet, LLC ("BetaNet"), filed December 15, 2009 (the "Complaint"), as follows:

1. Admits that the Complaint purports to be an action for patent infringement against Rockwell and certain other defendants.

AS TO PARTIES

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 2 of the Complaint.

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 3 of the Complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 4 of the Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 5 of the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 6 of the Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 7 of the Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 8 of the Complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 9 of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 10 of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 11 of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 12 of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 13 of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 14 of the Complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 15 of the Complaint.

16. Admits the allegations contained in ¶ 16 of the Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 17 of the Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 18 of the Complaint.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 19 of the Complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 20 of the Complaint.

AS TO JURISDICTION AND VENUE

21. States that it need not respond to the allegations contained in ¶ 21 of the Complaint, which purport to set forth conclusions of law (but if any response is required, denies such allegations).

22. Denies each and every allegation contained in ¶ 22 of the Complaint except (a) admits that Rockwell has transacted business in this district, (b) denies knowledge or information sufficient to form a belief as to the truth of those allegations pertaining to defendants other than Rockwell, and (c) states that it need not respond to those allegations which purport to set forth a conclusion of law (but if any response is required, denies such allegations).

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 23 of the Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 24 of the Complaint.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 25 of the Complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 26 of the Complaint.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 27 of the Complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 28 of the Complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 29 of the Complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 30 of the Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 31 of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 32 of the Complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 33 of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 34 of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 35 of the Complaint.

36. States that it need not respond to the allegations contained in ¶ 36 of the Complaint, which purport to set forth a conclusion of law (but if any response is required, denies such allegations).

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 37 of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 38 of the Complaint.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 39 of the Complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 40 of the Complaint.

AS TO COUNT 1
(Infringement of U.S. Patent No. 5,222,134)

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 41 of the Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 42 of the Complaint.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 43 of the Complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 44 of the Complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 45 of the Complaint.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 46 of the Complaint.

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 47 of the Complaint.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 48 of the Complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 49 of the Complaint.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 50 of the Complaint.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 51 of the Complaint.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 52 of the Complaint.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 53 of the Complaint.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 54 of the Complaint.

55. Denies each and every allegation contained in ¶ 55 of the Complaint except admits that Rockwell is marketing, distributing, using, selling, and/or offering to sell software programs including RSNetWorx.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 56 of the Complaint.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 57 of the Complaint.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 58 of the Complaint.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 59 of the Complaint.

AS TO COUNT 2
(Infringement of U.S. Patent No. 5,103,476)

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 60 of the Complaint.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 61 of the Complaint.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 62 of the Complaint.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 63 of the Complaint.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 64 of the Complaint.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 65 of the Complaint.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 66 of the Complaint.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 67 of the Complaint.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 68 of the Complaint.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 69 of the Complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 70 of the Complaint.

71. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 71 of the Complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 72 of the Complaint.

73. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 73 of the Complaint.

74. Denies each and every allegation contained in ¶ 74 of the Complaint except admits that Rockwell is marketing, distributing, using, selling, and/or offering to sell software programs including RSNetWorx.

75. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 75 of the Complaint.

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 76 of the Complaint.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 77 of the Complaint.

78. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 78 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

79. The Complaint fails, in whole or in part, to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

80. BetaNet's claims are barred, in whole or in part, by the doctrines of waiver, estoppel, equitable estoppel, and/or quasi estoppel.

THIRD AFFIRMATIVE DEFENSE

81. BetaNet's claims are barred, in whole or in part, by the equitable doctrines of unclean hands and *in pari delicto*.

FOURTH AFFIRMATIVE DEFENSE

82. BetaNet's claims are barred, in whole or in part, because it failed to mitigate damages.

FIFTH AFFIRMATIVE DEFENSE

83. BetaNet's claims are barred, in whole or in part, by the doctrine of innocent intent.

SIXTH AFFIRMATIVE DEFENSE

84. BetaNet's claims for equitable relief are barred because BetaNet has an adequate remedy at law.

SEVENTH AFFIRMATIVE DEFENSE

85. BetaNet's claims are barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

86. The claims in this action should be heard in the United States District Court for the Northern District of California, and the instant action thus either stayed or dismissed, pursuant to 28 U.S.C. § 1404(a), on grounds of inconvenient forum, given the location of

relevant parties, witnesses and evidence, and the relative burdens imposed by a Northern District of California venue and an Eastern District of Texas venue.

RESERVATION OF RIGHT TO ASSERT ADDITIONAL DEFENSES

87. Rockwell adopts and incorporates by reference, as if set forth fully herein, any affirmative defense asserted by any other defendant in this action to the extent that such affirmative defense would be applicable to Rockwell, and Rockwell hereby gives notice that it intends to rely upon any additional defense that may become available or appear during discovery proceedings or otherwise in this case, and Rockwell hereby reserves its right to amend its Answer to assert any such defense(s).

AS TO PRAYER FOR RELIEF

Rockwell asserts that BetaNet is not entitled to any relief against Rockwell whatsoever, and respectfully demands judgment in its favor as follows:

- (i) Dismissing with prejudice the each and every claim in BetaNet's Complaint; and
- (ii) Awarding Rockwell its attorneys' fees, interest, costs, disbursements, and such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Rockwell demands a trial by jury of all claims in this action which are so triable.

Dated: February 8, 2010
Marshall, Texas

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by U.S. mail or facsimile transmission, on this the 8th day of February, 2010.

/s/Melissa Richards Smith
Melissa Richards Smith